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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,385	02/10/2004	Scott R. Baize	29766-74072	9907
23643	7590	10/05/2004	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			RICHTER, SHELDON J	
			ART UNIT	PAPER NUMBER

3748

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,385

Applicant(s)

BAIZE ET AL.

Examiner

Sheldon J Richter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/10/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4, 6, 9, 11-16 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashi et al. Fig. 1 of Hayashi et al teaches a system for limiting turbocharger rotational speed, comprising a turbocharger 10 having a compressor 15 defining a compressor outlet 9 fluidly coupled to an intake manifold 5 of an internal combustion engine 1 and a compressor inlet 13, and having a turbine 20 defining an exhaust gas inlet 23 fluidly coupled to an exhaust manifold 21, 22 of the engine 1 and an exhaust gas outlet 19, a first pressure sensor 36 producing a first pressure signal indicative of pressure at the compressor inlet 13, a first temperature sensor

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37 producing a first temperature signal indicative of temperature at the compressor inlet 13, means 32, 33, 34 for determining an operating condition other than the pressure and the temperature at the compressor inlet 13, and producing a corresponding operating condition indicator, a control mechanism 26 for controlling a swallowing capacity or efficiency of the turbine 20, and a control computer EEC determining a maximum compressor outlet pressure value as a function of the first pressure signal, the first temperature signal, the operating condition indicator and a maximum turbocharger speed value, and controlling the control mechanism in a manner that limits compressor outlet pressure to the maximum compressor outlet pressure value to thereby limit rotational speed of the turbocharger to the maximum turbocharger speed value.

3. Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by 6401457. Fig. 1 of 6401457 teaches a system for limiting turbocharger rotational speed, comprising a turbocharger 18 having a compressor 16 defining a compressor outlet 20 fluidly coupled to an intake manifold 14 of an internal combustion engine 12 and a compressor inlet 36, and having a turbine 24 defining an exhaust gas inlet 26 fluidly coupled to an exhaust manifold 22 of the engine 12 and an exhaust gas outlet 38, a first pressure sensor 48 producing a first pressure signal 50 indicative of pressure at the

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compressor inlet 36, a first temperature sensor 37 producing a first temperature signal indicative of temperature at the compressor inlet 36, means 52, 56, 60 for determining an operating condition other than the pressure and the temperature at the compressor inlet, and producing a corresponding operating condition indicator, a control mechanism Fig. 2A, 2B, 2C for controlling a swallowing capacity or efficiency of the turbine 24, and a control computer 42 determining a maximum compressor outlet pressure value as a function of the first pressure signal, the first temperature signal, the operating condition indicator and a maximum turbocharger speed value, and controlling the control mechanism in a manner that limits compressor outlet pressure to the maximum compressor outlet pressure value to thereby limit rotational speed of the turbocharger to the maximum turbocharger speed value.

4. Claims 1-2, 4-8 and 11-18 are rejected under 35 U.S.C. 102(e) as being anticipated by 6539714. Fig. 1 of 6539714 teaches a system for limiting turbocharger rotational speed, comprising a turbocharger 18 having a compressor 16 defining a compressor outlet 20 fluidly coupled to an intake manifold 14 of an internal combustion engine 12 and a compressor inlet 22, and having a turbine 26 defining an exhaust gas inlet 30 fluidly coupled to an exhaust manifold 28 of the engine 12 and an exhaust gas outlet 32, a first pressure sensor 54

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producing a first pressure signal 56 indicative of pressure at the compressor inlet 22, a first temperature sensor 50 producing a first temperature signal 52 indicative of temperature at the compressor inlet 22, means 58, 62, 66 for determining an operating condition other than the pressure and the temperature at the compressor inlet 22, and producing a corresponding operating condition indicator, a control mechanism 72 for controlling a swallowing capacity or efficiency of the turbine 26, and a control computer 40 determining a maximum compressor outlet pressure value as a function of the first pressure signal, the first temperature signal, the operating condition indicator and a maximum turbocharger speed value, and controlling the control mechanism in a manner that limits compressor outlet pressure to the maximum compressor outlet pressure value to thereby limit rotational speed of the turbocharger to the maximum turbocharger speed value.

5. Claims 1-8 and 11-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Ahmad et al. Fig. 5 of Ahmad et al teaches a system for limiting turbocharger rotational speed, comprising a turbocharger 223 having a compressor 224 defining a compressor outlet fluidly coupled to an intake manifold 114 of an internal combustion engine 110 and a compressor inlet 234, and having a turbine 226 defining an exhaust gas inlet fluidly coupled to an exhaust manifold 116 of the engine 110 and an exhaust gas outlet

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236, a first pressure sensor 258 producing a first pressure signal indicative of pressure at the compressor inlet 234, a first temperature sensor 262 producing a first temperature signal indicative of temperature at the compressor inlet 234, means 252, 254, 256 for determining an operating condition other than the pressure and the temperature at the compressor inlet 234, and producing a corresponding operating condition indicator, a control mechanism 230 for controlling a swallowing capacity or efficiency of the turbine 226, and a control computer 250 determining a maximum compressor outlet pressure value as a function of the first pressure signal, the first temperature signal, the operating condition indicator and a maximum turbocharger speed value, and controlling the control mechanism in a manner that limits compressor outlet pressure to the maximum compressor outlet pressure value to thereby limit rotational speed of the turbocharger to the maximum turbocharger speed value.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheldon J

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Richter whose telephone number is (703) 305-0475. The examiner can normally be reached on M-F 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703) 308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'S. Richter', with a large, stylized flourish at the end.

Sheldon J Richter
Primary Examiner
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SJR